

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Clark Family Living Trust
c/o Lavern R. & Normajean Clark (Trustees),

Petitioner-Appellant,

v.

Black Hawk County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 09-07-0710
Parcel No. 8813-05-352-024

On September 9, 2009, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Clark Family Living Trust was represented by Trustees Lavern R. and Normajean Clark and requested a written consideration. The Black Hawk County Board of Review designated County Attorney David J. Mason as its legal representative. The Appeal Board having reviewed the entire record and being fully advised, finds:

Findings of Fact

The Clark Family Living Trust (the Trust), owner of a residentially classified property located at 1925 Westchester Road, Unit 206, Waterloo, Iowa, appeals from the Black Hawk County Board of Review regarding its 2009 property assessment. The 2009 assessment is allocated as follows: \$5270 in land value and \$96,160 in improvement value for a total assessment of \$101,430.

The subject property is a single-family, apartment-style condominium residence. The improvements include 1302 square feet of finish on a single level and a 128 square foot balcony. The

condominium was built in 1973 and the subject unit has four rooms, including two bedrooms. The site is 0.048 acres.

The Trust protested its assessment to the Black Hawk County Board of Review. On the protest form it listed four comparable properties contending its property assessment was not equitable with that of like properties under Iowa Code section 441.37(1)(a) and that the property was assessed for more than authorized by law under section 441.37(1)(b). It also asserted there has been a downward change in value since the last assessment. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim under section 441.37(1)(b). *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006).

The Board of Review left the value unchanged.

The Trust then appealed to this Board reasserting its original claims that the assessment is not equitable and greater than market value. It seeks relief of \$7500, asserting the total correct value of the property is \$93,930, allocated as \$5270 in land value and \$88,660 in improvement value.

The Trust provided four equity comparables, providing the condo unit number, sale date, "area" (gross living area), sale price, and the assessed value. It is unclear if these units are located in the subject development or competing development as a complete address was not provided. It is also unclear if the assessed value is the 2009 assessed value as it was not noted by the petitioner. In the petition to this Board, the Trust included a list of two-bedroom units in the subject development. By cross reference, two of the four properties submitted as equity comparables do appear to be located in the subject's development. Also by cross-reference the two properties in the subject's development (Units 120 and 220) have the 2008 assessed value reported rather than the 2009 assessment.

There is not enough information known about the other two properties submitted by the Trust as equity comparables to determine if they are comparable properties. According to the petition, two of the equity comparables, units 314 and 224, have 1736 and 1806 square feet respectively compared

to the subject's 1302 square feet of living area. The subject is a two-bedroom unit and the bedroom count of units 314 and 224 is unknown. The other two units submitted as equity comparables by the Trust that do appear to be located in the subject's development and are similar in living area size both having 1302 square feet. However, the assessed value reported for these two sales is the January 1, 2008, assessment and as such can not be used for a January 1, 2009, equity analysis.

The Trust included a grid of the two-bedroom units located in the Regency North development. The grid includes the apartment (unit) number, 2006 thru 2009 assessments and if available notes about each property. Sixteen properties were listed which includes the subject unit. The only relevant assessment information presented is the January 1, 2009 assessment. The sixteen 2009 assessments, range from \$99,630 to \$101,430. This information however is incomplete for either an equity analysis or to determine market value as there are no adjustments made for differences, no comparison between assessed value and market value to determine a ratio, and no comparisons made specifically to determine the market value of the subject property.

The Board of Review did not present any evidence.

We find the information presented is incomplete and insufficient to support a claim of inequity or over-assessment.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is to determine the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The Trust’s evidence of inequity was incomplete and did not demonstrate a disparity between the subject property-assessment and the assessments of other like properties. There was no assertion by the Trust that assessing methods were not uniformly applied.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). While the Trust offered several two-bedroom properties for comparison, no actual comparisons or adjustments were made to reflect any differences between the subject and the comparables. Minimal information was presented about the properties presented by the Trust for


comparison, such as size, room count, and in some cases overall condition. The Trust did not offer any analysis or support to a final conclusion of what they believe to be the correct value of the property.

We hold the evidence does not support the claim that the property's assessment is not equitable with assessments of like properties or that the property is assessed for more than authorized by law. We therefore affirm the assessment of the Clark Family Living Trust property as determined by the Black Hawk County Board of Review, as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the Clark Family Living Trust's property located at 1925 Westchester Road, Apartment 206, Waterloo, Iowa, of \$101,430 as of January 1, 2009, set by Black Hawk County Board of Review, is affirmed.

Dated this 15 day of July, 2011


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-15</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	